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corrected Figure 1 and provided an appropriate "Replacement Sheet." For the sake of completeness, all other figures are being resubmitted with this Response.

CLAIM REJECTION UNDER 35 U.S.C. § 102

The examiner has rejected Claim 1 of the subject invention as being anticipated by Khachaturian (U.S. Patent No. 6,425,710). A patent is anticipated under 35 U.S.C. § 102 if a single prior art reference explicitly discloses each and every limitation of the claimed invention. See *LP Matthews, L.L.C. v. Bath & Body Works, Inc.*, 458 F. Supp. 2d 198, 204 (D. Del. 2006). The Federal Circuit has stated that "[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." *Id.* (quoting *Scripps Clinic & Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991)). "In determining whether a patented invention is [explicitly] anticipated, the claims are read in the context of the patent specification in which they arise and in which the invention is described." *LP Matthews*, 458 F. Supp. 2d at 204 (quoting *Glaverbel Societe Anonyme v. Northlake Mktg. & Supply, Inc.*, 45 F.3d 1550, 1554 (Fed. Cir. 1995)).

When reading Claim 1 of the subject invention in the context of the specification, it is clear that every limitation of the claimed invention is not explicitly disclosed in Khachaturian. In fact, a number of limitations in the claimed invention are not disclosed, described, or even mentioned in Khachaturian. The differences between the referenced prior art and the claimed invention are patent.

In particular, Khachaturian does not disclose an adaptor mechanism for attaching a tripod to a portable liquid storage tank. Khachaturian discloses a marine platform (which is neither a tripod nor a portable liquid storage tank) with a plurality of spaced

apart buoys (which are neither tripods nor portable liquid storage tanks) each having an attachment position for attachment to the platform.

As disclosed by Khachaturian, the attachment positions on the buoys are connected to the platform by "articulating connections," which include "corresponding concave and convex engaging portions" or "a universal type joint." Khachaturian, col. 2, ll. 54-58. The claimed invention, on the other hand, includes a pocket adapted to secure a tripod to a storage tank and an adjustable mount to secure a mechanism to a storage tank. As demonstrated by Figures 3 and 4, the pocket and adjustable mount of the claimed invention do not contain "corresponding concave and convex engaging portions" and are not "universal type" joints. In fact, by definition, a universal type joint allows limited freedom of movement, while the claimed invention requires no freedom of movement and secured stability as one of its purposes is to retrieve an object (including perhaps a person) from a storage tank.

Considering the foregoing, each and every element of Claim 1 of the subject invention is not explicitly disclosed by Khachaturian, and Claim 1 should not be rejected on these grounds.

CLAIM REJECTION UNDER 35 U.S.C. § 103

The examiner has rejected Claims 2 and 3 of the subject invention as being obvious in light of Khachaturian (U.S. Patent No. 6,425,710). To establish that a patent claim is obvious, prior art references must be identified "which alone or combined with other references would have rendered the invention obvious to one of ordinary skill in the art at the time of the invention." *Network Appliance, Inc. v. Bluearc Corp.*, 374 F. Supp. 2d 825, 833 (N.D. Cal. 2005) (quoting *Al-Site Corp. v. VSI Int'l, Inc.*, 174 F.3d 1308,

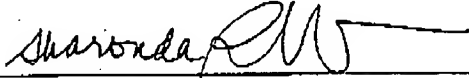
1323 (Fed. Cir. 1999)). The factual determinations underlying a finding of obviousness include: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the art; and (4) secondary evidence of nonobviousness. *See Network Appliance*, 374 F. Supp. 2d at 833. Secondary evidence of nonobviousness can include the commercial success of the invention, long-felt need, failure of others to solve the problem, licensing of the invention, professional recognition and approval, and copying of the invention. *See id.*

Considering these factors, Claims 2 and 3 are not obvious and should not be rejected under 35 U.S.C. § 103(a). As discussed above, Khachaturian discloses and claims a marine platform to which a plurality of buoys is attached, which allows buoy motion in response to wind or current, thereby reducing stress on the platform. The claimed invention does not relate to an improved offshore marine platform. Further as discussed above, the claimed invention and the invention disclosed by Khachaturian are entirely different. There is secondary evidence of nonobviousness as there has been a need in the industry to retrieve objects from enclosed and confined spaces, and others have failed to solve the problem. There is a high level of skill in the offshore oil and gas drilling industry; but none of the other factors weigh in favor of a determination of obviousness.

The platform as disclosed in Khachaturian may be used in offshore oil and gas drilling, and the examiner seems to suggest that because the claimed invention can be used on the platform disclosed by Khachaturian and in other oil and gas drilling settings, the claimed invention is obvious. Such is not the case or the pertinent inquiry. That the claimed invention could be used in conjunction with the invention disclosed by

Khachaturian merely bolsters the applicant's assertion that the claimed invention has met a long-felt need in the offshore oil and gas industry. Accordingly, Claims 2 and 3 should not be rejected under 35 U.S.C. § 103(a).

Respectfully submitted,


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